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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/491,703	01/26/2000	Alex Dai-Shun Poon	2043.007US1	8953
49845 7590 03/26/2008 SCHWEGMAN, LUNDBERG & WOESSNER/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER BADIL, BEHRANG				
ART UNIT 3694		PAPER NUMBER		
NOTIFICATION DATE 03/26/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

### Office Action Summary

**Application No.**

09/491,703

**Applicant(s)**

POON, ALEX DAI-SHUN

**Examiner**

BEHRANG BADII

**Art Unit**

3694

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9, 11-16, 25, 27-32, 41, 43-48, 58, 59, 62, 63, 66, 67, 71, 73 and 75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9, 11-16, 25, 27-32, 41, 43-48, 58, 59, 62, 63, 66, 67, 71, 73 and 75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/14/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 9, 11-16, 25, 27-32, 41, 43-48, 58-59, 62-63, 66-67, 71, 73, and 75 have been examined.

#### ***Response to Arguments***

Applicant's arguments filed on 12/14/07 have been fully considered but they are not persuasive. The applicant's basic argument is Greef et al., hereinafter "Greef", does not disclose a category number. The Greef reference is replete with disclosure of category data used for identification. The claims limitation the category number is used for identifying the category. Greef discloses category data used for identification of the category as discussed below.

#### **2112 [R-3] Requirements of Rejection Based on Inherency; Burden of Proof**

The express, implicit, and inherent disclosures of a prior art reference may be relied upon in the rejection of claims under 35 U.S.C. 102 or 103. "The inherent teaching of a prior art reference, a question of fact, arises both in the context of anticipation and obviousness." In re Napier, 55 F.3d 610, 613, 34 USPQ2d 1782, 1784 (Fed. Cir. 1995) (affirmed a 35 U.S.C. 103 rejection based in part on inherent disclosure in one of the references). See also In re Grasselli, 713 F.2d 731, 739, 218 USPQ 769, 775 (Fed. Cir. 1983).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 11-15, 25 and 41, 42-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,397,221) Greef et al, hereafter Greef.

Claims 9, 25, and 41. Greef discloses, Providing a plurality of category entries to be displayed for said user in a category field within a display window, said plurality of category entries being used to categorize an item in said computerized transaction (col. 15, lines 34-52); detecting selection by said user of a category entry of said plurality of category entries (col. 15, lines 53-65); responding to said detection of said selection of said category entry, providing a plurality of subcategory entries being hierarchically related to said selected category entry within a category hierarchy data structure, to be displayed for said user in at least one subcategory entry field within said display window, concurrently with said category field, said plurality of subcategory entries being used to categorize said item in said transaction (col. 7, lines 31-44, col. 29, line 40-co1. 30, line 60 and col. 31, lines 18-59); providing a category number (value, information, data, register) associated with said selected category entry (abstract, col.29, 50-67; col.30, 1-14 and 25-42; col.31, 18-50). However, Greef did not expressly disclose a transaction, since this is an e-commerce shopping system and method, a transaction is obviously present. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a transaction take place in view of Greef's teachings of an e-commerce shopping method and system and to modify in Greef

because such a modification would allow Greef to have items to select from prior to making a transaction.

Claims 11, 27, and 43, Greef failed to disclose, wherein said category field comprises twelve category entries in alphabetical order. However, this claim limitation is considered non-functional descriptive claim language. The selection for a number for the category field would have been performed in the same manner regardless of whether the entries were twelve or some other number and arranged in alphabetical order. The fact there are twelve entries in alphabetical order is a design choice and has no bearing on the function and outcome of claims 9.

Claims 12, 28, and 44. Greef discloses, further comprising subsequently detecting input of said category number from said user and, responsive to said detection of said input, providing said associated category entry to be displayed for said user in said category field (col. 28, line 54-co1.29, line 23).

Claims 13, 29, and 45. Greef discloses, wherein said at least one subcategory field further comprises a first subcategory field containing a plurality of first subcategory entries being hierarchically related to said category entry of said plurality of category entries selected by said user; a second subcategory field containing a plurality of second subcategory entries being hierarchically related to a selected first subcategory entry of said plurality of first subcategory entries; and a third subcategory field containing a plurality of third subcategory entries being hierarchically related to a

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selected second subcategory entry of said plurality of second subcategory entries (col. 14, line 50-co1.15, line 2).

Claims 14, 30, and 46. Greef discloses, wherein said category field and said at least one subcategory field are contained in graphically distinct areas within said display window (col. 10, line 31-col. 11, line 46).

Claims 15, 31, and 47. Greef discloses, wherein said at least one subcategory field is substantially adjacent to said category field (Figure 5).

Claims 16, 32, 48, 58, 59, 62, 63, 66, 67, 71, 73, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,397,221) Greef et al, hereafter Greef in view of Linden et al (US 2005/0071251A1).

Claims 16, 32, and 48. Greef failed to disclose wherein said category field and said at least one subcategory field are page mark-up language documents. HTML is old and well known in the art of the internet and reference can be had to page 3, col. 1[0035] to Linden et al (US 2005/0071251A1).

Claims 58, 62, and 66, Greef discloses, further comprising: detecting selection by said user of at least one subcategory entry of said plurality of subcategory entries (col. 15, line 34-co1.16, line 9).

Claims 59, 63 and 67, Greef discloses, further comprising: responsive to said detection of said selection of said at least one subcategory entry, providing a category number associated with said selected category entry and said at least one selected

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subcategory entry to be displayed for said user in said display window (col. 17, lines 8-65, col. 27, line 44-co1.28, line 19). Attribute value is considered a number and child is considered a subcategory of the parent as a category.

Claims 71, 73, and 75. Greef discloses, wherein said plurality of category entries are maintained in said category field within said display window and said plurality of subcategory entries are displayed in said at least one subcategory field within said display window, concurrently with said plurality of category entries (col. 8, lines 26-53 and col. 29, line 39-col. 30, line 59).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Behrang Badii whose telephone number is 571-272-6879. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

Mail Stop Amendment  
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P.O. Box 1450  
Alexandria, VA 22313-1450

**or faxed to (571)273-8300**

Hand delivered responses should be brought to

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Randolph Building  
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Alexandria, VA 22314



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 3600 Customer Service Office whose telephone number is **(571) 272-3600**.

/BB/

/James P Trammell/  
Supervisory Patent Examiner, Art Unit 3694